

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

RICHARD KEITH JOHNSON,)
)
Petitioner,)
)
v.) No. 1:15-cv-01499-JMS-DKL
)
MARK DODD Chaplin,)
DUSHAN ZATECKY Superintendent,)
)
Respondents.)

Entry Dismissing Insufficient Claims and Directing Further Proceedings

I.

Because the plaintiff was a “prisoner” as defined by 28 U.S.C. § 1915(h) when he filed his complaint, the complaint is subject to the screening requirement of 28 U.S.C. § 1915A(b). Pursuant to this statute, “[a] complaint is subject to dismissal for failure to state a claim if the allegations, taken as true, show that plaintiff is not entitled to relief.” *Jones v. Bock*, 127 S. Ct. 910, 921 (2007). To survive a motion to dismiss, the complaint “must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. . . . A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 129 S.Ct. 1937, 1949 (2009) (quotations omitted). Pro se complaints such as that filed by the plaintiff, are construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers. *Erickson*, 551 U.S. at 94; *Obriecht v. Raemisch*, 517 F.3d 489, 491 n.2 (7th Cir. 2008).

The plaintiff alleges that from September 9, 2014, through October 19, 2015, he was denied the ability to attend Native American religious services and receive his religious meals. He

therefore brings this suit against the Superintendent of the facility in which he was held and the chaplain of that facility. He alleges that two policies implemented by the Superintendent prevented him from attending religious services, and further, that the chaplain wrongly stated that the plaintiff belatedly turned in his request for his religious meals and was thus denied the meals. Denial of religious meals, says the plaintiff, was done in retaliation for filing grievances. Finally, the plaintiff alleges that he was denied his right to display his Native American medicine bag. The plaintiff contends that the foregoing actions violated his rights under the First Amendment and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. §§ 2000cc, *et seq.* He asks the Court to enjoin certain prison policies and seeks an award of compensatory, punitive, and nominal damages.

The plaintiff’s claims under RLUIPA are **dismissed**. Prisoners complaining that prison authorities have infringed their religious rights may do so under RLUIPA, “which confers greater religious rights on prisoners than the free exercise clause has been interpreted to do.” *Grayson v. Schuler*, 666 F.3d 450, 451 (7th Cir. 2012). However, RLUIPA only authorizes injunctive relief; it “does not create a cause of action against state employees in their personal capacity.” *Id.* Because the plaintiff has been released from prison, his injunctive relief claim is moot and thus his RLUIPA claims must be dismissed. *See id.*

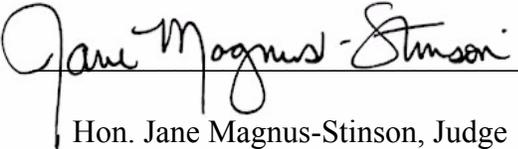
II.

The plaintiff’s allegations are sufficient to state a First Amendment free exercise claim against both defendants and a retaliation claim against defendant Chaplain Mark Dodd. Accordingly, these claims **shall proceed**.

The clerk shall **issue and serve process** on defendants Chaplain Mark Dodd and Superintendent Dushan Zatecky in the manner specified by *Fed. R. Civ. P. 4(d)(2)*. Process in this case shall consist of the complaint, applicable forms, and this Entry.

IT IS SO ORDERED.

Date: November 13, 2015

A handwritten signature in black ink that reads "Jane Magnus-Stinson". The signature is written in a cursive style with a large initial "J" and "S".

Hon. Jane Magnus-Stinson, Judge
United States District Court
Southern District of Indiana

Distribution:

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